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November 18, 2024

VIA ECF

The Honorable Margo K. Brodie
United States District Court
For the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *State Farm Mut. Auto. Ins. Co. v. Metro Pain Specialists, et al., No. 1:21-cv-5523 (E.D.N.Y.) – Response to Plaintiffs’ Proposed Order Modifying the Preliminary Injunction Following the Second Circuit’s Decision*

Dear Chief Judge Brodie:

This firm represents defendants Yan Moshe, Hackensack Specialty ASC LLC, Integrated Specialty ASC LLC, Reuven Alon, Columbus Imaging Center LLC, Medaid Radiology LLC, SCOB LLC, Citimed Surgery Center LLC, NJMHC LLC, Star Solutions Services, LLC, Beshert Corp., Nizar Kifaieh, M.D., and Premier Anesthesia Associates PA (collectively “These Defendants”) in the above referenced matter.

I am writing in response to the November 15, 2024 letter and proposed order filed by Jonathan L. Marks, Esq., counsel for plaintiffs (Docket No. 633). These Defendants oppose the entry of the form of order submitted.

First, the plaintiffs’ proposed form of order is unnecessary. The Second Circuit’s decision and order is clear, and was docketed in this matter on October 24, 2024 (Docket No. 623). On November 14, 2024, the Second Circuit issued its mandate entering Judgment consistent with its opinion. The November 14, 2024 Mandate was also docketed in this matter on November 14, 2024 (Docket No. 632). There is no need for an additional order confirming the decision of the Second Circuit.

Second, the proposed form of order submitted by plaintiffs imposes additional restrictions on all defendants that have not been previously imposed. If Your Honor determines an updated

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order is necessary, the order should simply state “The existing injunction in this matter (Docket No. 237) is modified as to now also apply to pending state-court proceedings.” Plaintiffs’ proposed order seeks to bind not only all defendants, but also defendants “attorneys and those who are in active concert or participation with defendants.” Besides this being extremely vague, there is no prior order enjoining anyone other than the defendants. This language should not be included in a new order.

Third, plaintiffs are attempting to use the proposed form of order as a pre-emptive enforcement tool, rather than a modification of the existing injunction. If plaintiffs determine the existing injunction is being violated, they can take action as they see fit. Plaintiffs are not, however, entitled to a pre-emptive enforcement tool as stated in the proposed form of order.

For these reasons, These Defendants object to the form of order submitted by Plaintiffs. Thank you for Your Honor’s consideration.

Respectfully submitted,

/s/ **Anthony M. Juliano**

Anthony M. Juliano

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